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Attorneys for Defendants **JOSE ZAVALA and**
JULIO QUINTANILLA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARGARITO T. LOPEZ, SONIA
TORRES, KENI LOPEZ, ROSY
LOPEZ,

Plaintiffs,

v.

CITY OF LOS ANGELES, JOSE
ZAVALA, JULIO QUINTANILLA,
AND DOES 1 THROUGH 10,
INCLUSIVE,

Defendants.

CASE NO. 2:22-cv-07534-FLA-MAAx

*[Assigned to Judge Fernando L. Aenlle-Rocha,
USDC-Hon. Mag. Maria A. Audero, USDC-
Roybal Bldg]*

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' NOTICE OF MOTION
AND MOTION IN LIMINE NO. 4 TO
PRECLUDE DEFENDANTS FROM
ELICITING EXPERT TESTIMONY IN
THE AREA OF POLICE PRACTICES
AND PROCEDURES AND USE OF
FORCE FROM ANY WITNESS,
INCLUDING JAMES BORDEN, FOR
FAILURE TO COMPLY WITH RULE
26**

FPTC: May 31, 2024
TIME: 1:00 PM
DEPT: 6B, 6th Floor

PLEASE TAKE NOTICE THAT Defendants OFFICERS JOSE ZAVALA
AND JULIO QUINTANILLA (collectively "Defendant-Officers"), will and hereby
do request Plaintiffs' motion to preclude Defendants from eliciting testimony

1 regarding police practices and procedures and use of force be denied. Plaintiffs'
2 motion is far-reaching and improper. Plaintiffs are correct that the Defendant-
3 Officers do not intend on calling James Borden at the trial in this matter. However,
4 Plaintiffs' requested exclusion of eliciting *any and all* testimony on use of force or
5 standard police practices is an overreach of the exclusionary provisions of Fed. R.
6 Civ. P. 37(c)(1).
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9 Fed. R. Civ. P. 37(c)(1) provides in part that:

10 If a party fails to provide information or identify a witness as
11 required by Rule 26(a) or (e), the party is not allowed *to use*
12 *that information or witness* to supply evidence on a motion, at a
13 hearing, or at a trial, unless the failure was substantially
14 justified or is harmless.
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17 (Emphasis added.). The Defendant-Officers have already agreed, however,
18 not to elicit any information or witness testimony from James Borden. That the
19 Defendant-Officers have made this concession is made clear from the parties'
20 stipulation. *See* Dkt. #66.
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23 Plaintiffs' citation to *Yeti by Molly, Ltd. v. Deckers Outdoor Corp.* 259 F.3d
24 1101 (9th Cir. 2001) does nothing to support the overbroad request they seek. The
25 Ninth Circuit in *Yeti by Molly* affirmed the district court's exclusion of the
26 defendant's expert after the defendant failed to provide the expert's report pursuant
27 to the disclosure requirements of Fed. R. Civ. P. 26(a)(2). Again, the Defendant-
28

1 Officers already stipulated to the exclusion of James Borden from the trial in this
2 matter. Dkt. #66. *Yeti by Molly* does not stand for the proposition however, that *all*
3 evidence on a matter must be excluded.
4

5 Nonetheless, the Defendant-Officers will not be seeking to introduce expert
6 testimony on the issue of police practices. But the Defendant-Officers and third-
7 party officer witnesses must be permitted to testify regarding general police
8 responses and practices, including tactics, procedures, options, and more. Such
9 testimony is probative and necessary to the jury's determination of whether the
10 Defendant-Officers' actions were reasonable based on the totality of the
11 circumstances. Indeed, because the *Graham* inquiry necessarily *requires* a
12 determination from the perspective of a reasonable police officer, the jury must be
13 able to understand law-enforcement procedures, tactics, methods, and more, in
14 determining the reasonableness of the Defendant-Officers' actions. To prevent
15 Defendant-Officers from eliciting any and all testimony and information of the
16 same would be to sanction a miscarriage of justice and would result in a
17 fundamentally unfair trial to the defense. This Court should therefore deny
18 Plaintiffs' motion.
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25 Date: May 16, 2024

STONE BUSAILAH, LLP

26 By: /s/ Muna Busailah

MUNA BUSAILAH, Esq.

27 Attorney for Defendants JOSE ZAVALA,
28 JULIO QUINTANILLA